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Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 21 May 2002 from the Permanent Mission of Jamaica to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Jamaica to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and has the honour to refer to the latter's note dated 7 March 2002 concerning the submission of reports on the steps taken by individual member Governments in respect of Osama bin Laden and members of the Al-Qaida organization, as well as the Taliban and other individuals, groups, undertakings and entities associated with them.

In accordance with the mandate of the stipulated paragraphs, the Permanent Mission of Jamaica is pleased to submit herewith the report of the Government of Jamaica to the Committee (see annex).

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Annex to the note verbale dated 21 May 2002 from the Permanent Mission of Jamaica to the United Nations addressed to the Chairman of the Committee

Report of the Government of Jamaica to the Security Council Committee established pursuant to Resolution 1267 (1999) on Afghanistan

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Implementation of Security Council Resolution 1390 (2002) by the Government of Jamaica

Pursuant to paragraph 6 of Security Council resolution 1390 (2002), the Committee is being informed of the steps taken by the Government of Jamaica to implement the measures contained in the resolution.

Jamaica is committed to the international fight against terrorism and reaffirms its support of Security Council resolution 1267 (1999), as well as resolution 1390 (2002), which recalls the obligation of all United Nations member countries to implement in full resolution 1373 (2001) to combat terrorism.

Paragraph 2(a)

Asset Freeze

Jamaica has no specific legislation which would cover the freezing of the assets of Osama Bin Laden, members of the Al-Qaida and Taliban organizations, and individuals, groups, undertakings and entities associated with them, who have participated in the financing, planning, facilitating and preparation of terrorist acts or in supporting terrorist acts.

The only provision relating to the freezing, restraining, forfeiture and seizure of assets for criminal offences applies to drug related offences, under the Drugs Offences (Forfeiture of Proceeds) Act. The Act in its present form can only operate where a person has at least been charged with an offence, in which case the assets can be frozen pending the outcome of the trial, consistent with constitutional rights. The Constitution does not allow for civil forfeiture. In addition, it is likely that an attempt to freeze the assets of someone who has not been charged with an offence in Jamaica, would not succeed in our courts, due to constitutional guarantees. The scope of the Act will have to be extended for Jamaica to implement the measures of paragraph 2(a), with an attendant change in title.

As part of its responsibilities to ensure that banks do not allow funds to be used for illegal purposes, which can include terrorist activities and financing of terrorist activities, the Bank of Jamaica, in its role as the central bank, makes regular inspections of financial institutions and provides updates within the financial sector on the lists of persons, groups or organizations which support terrorism, as issued by the Security Council. To date, investigations have revealed no assets belonging to any of the listed parties.

The Bank is charged, under the Money Laundering Act (1996), with issuing guidelines as to the operation and procedures to prevent money laundering activities and the use of the proceeds of crime. The Act does not cover terrorism financing.

Currently, the financing of terrorist activities is not a criminal offence and there is no specific legislation dealing solely with terrorism and terrorist offences. However, offences which lead to injury, loss of life or damage to property, are punishable by common law or by statute. Section 2(f) of the Offences Against the Persons Act makes reference to murder in the course of or furtherance of an act of terrorism.

Paragraph 2(b)

Travel Ban

The Ministry of National Security and its related agencies and departments are alert to the Government's obligation to prevent the persons identified from entering or transiting through Jamaica. The Chief Immigration Officer keeps personnel at entry ports updated on the lists issued by the United Nations.

Jamaica has strengthened security at all ports of entry. The Civil Aviation Authority, the Port Authority of Jamaica and the national airline have tightened security procedures to prevent the listed terrorist organizations from entering or transiting through Jamaica.

Once the identities of such persons are known, action can be taken to bar their entry into Jamaica or to have them removed, on the basis that such persons represent a threat to national security or that their presence is not conducive to public good. The relevant legislation is the Aliens Act. Under the Aliens Act - Sections 5 and 6 – the Minister of National Security can issue a Landing Order to prevent such persons from landing in Jamaica. Deportation Orders can also be issued against them under Section 15 of the Act. Currently, it would be possible to extradite persons under the Extradition Act for any serious offence, such as murder or serious injury to persons, which might have been committed during a terrorist act.

Paragraph 2(c)

Arms, Ammunition and other Weapons

The Firearm Act regulates the importation, export, transshipment, sale and ownership of firearm and ammunition. Dealers in firearms are also registered and controlled under the Act and possession of a firearm without a licence is an offence with penalties ranging from five (5) years to life imprisonment.

Jamaica does not manufacture weapons, ammunition or other weapons of destruction. Jamaica has signed the 1997 Inter-American Convention Against Illicit Manufacture and Trafficking in Weapons, Munitions, Explosives and Related Materials and the United Nations Convention Against Transnational Organised Crime and its related protocols. Steps are to being taken to ratify and implement both Conventions.

Paragraph 4

Obligation to Implement resolution 1373 (2001)

The Government of Jamaica is cooperating with the United Nations Counter-Terrorism Committee in the implementation of resolution 1373 (2001) and has submitted its report to the Committee. In line with the obligations under the resolution, the Government has stated its intention to develop a framework of legislative and administrative measures to comprehensively address terrorist activity and engage in international cooperation to counter terrorism. It has established an Inter-Ministerial Committee on Terrorism, chaired by the Ministry of National Security. This Committee has established a Legal Sub-Committee comprising representatives of all government legal departments, including the Director of Public Prosecutions, the Legal Reform Department and the Bank of Jamaica, to examine the United Nations anti-terrorism instruments and resolutions, identifying the legislative action which is required for their implementation.

Paragraphs 7 and 8

Cooperation with the Committee and the Monitoring Group

Jamaica is cooperating with the Committee and the Monitoring Group set up pursuant to paragraph 4(a) of resolution 1363 (2001) by providing information on the steps taken by the Government of Jamaica to implement resolution 1390 (2002). The Bank of Jamaica has carried out investigations in the financial sector and found no accounts/assets belonging to Osama bin Laden, Al-Qaida and the other listed terrorist entities. The Bank makes regular checks in the financial sector and should any such accounts be

found, the Government will use existing measures to prevent such accounts from being accessed and to freeze the accounts. There are, however, no enforcement actions to report to the Committee, as stipulated in paragraph 2 of resolution 1390 (2002).

The Government is currently reviewing the Drug Offences (Forfeiture of Proceeds) Act to allow provision relating to the freezing, restraining and forfeiture of funds and other financial or economic assets of persons committing or supporting, aiding and abetting terrorist acts, or entities owned or controlled by such persons.

The Government is considering possible amendment to Section 2 of the Money Laundering Act to expand the schedule of specified or predicate offences, so as to include terrorism and its associated practices and to specify appropriate penalties.

The Extradition Act and the Mutual Legal Assistance (Criminal Matters) Act will also be amended to cover terrorist offences, including the financing of terrorism.